

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

NATHAN MARQUIS LEBARON,
Plaintiff,

vs.

JOYCE J. MCCOWN and JENNIFER
M. WINKLER,
Defendants.

NO. CV-08-240-EFS

**ORDER DENYING PLAINTIFF'S MOTION
TO RECONSIDER AND TO AMEND**

Before the Court, without oral argument, is Plaintiff's Motion to Reconsider and to Amend. (Ct. Rec. 7.) Plaintiff, a Massachusetts State prisoner, is proceeding *pro se*. The Court dismissed the action and denied leave to proceed *in forma pauperis* on August 4, 2008. Defendants have not been served.

Plaintiff did not note his motion for hearing as required by Local Rule for the Eastern District of Washington 7.1(h). The Court nevertheless noted the motion for hearing on the date signed below.

PLAINTIFF IS CAUTIONED THAT ANY FURTHER MOTIONS SUBMITTED TO THE COURT WITHOUT NOTING THEM FOR HEARING IN COMPLIANCE WITH THE LOCAL RULES WILL NOT BE ADDRESSED BY THE COURT.

1 Furthermore, Plaintiff has not complied with Local Rule 10.1(a)(2),
2 which requires printed materials to be double spaced. Plaintiff's
3 future submissions, if any, must comply with the Local Rules for the
4 Eastern District of Washington and the Federal Rules of Civil Procedure.
5 See *King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1987) (finding that pro
6 se litigants must follow the same rules of procedure that govern other
7 litigants). The District Court Executive is **DIRECTED** to forward a copy
8 of the Local Rules to Plaintiff.

9 A Motion for Reconsideration under Federal Rule of Civil
10 Procedure 59(e) "should not be granted, absent highly unusual
11 circumstances, unless the district court is presented with newly
12 discovered evidence, committed clear error, or if there is an
13 intervening change in the controlling law." *McDowell v. Calderon*, 197
14 F.3d 1253, 1255 (9th Cir. 1999) (*en banc*) (*quoting Orange St. Partners*
15 *v. Arnold*, 179 F.3d 656, 665 (9th Cir. 1999)); see also FED. R. CIV. P.
16 60(b). Such motions are not the proper vehicle for offering evidence or
17 theories of law that were available to the party at the time of the
18 initial ruling. *Fay Corp. v. Bat Holdings I, Inc.*, 651 F. Supp. 307,
19 309 (W.D. Wash. 1987).

20 Here, Plaintiff has not alleged either newly discovered evidence or
21 an intervening change of controlling law. Thus, the only remaining
22 question is whether the Court should alter its prior ruling in order to
23 "correct a clear error or prevent manifest injustice." *Pyramid Lake*
24 *Paiute Tribe v. Hodel*, 882 F.2d 364, 369 n.5 (9th Cir. 1989).

25 The Court previously explained to Plaintiff that amending his
26 complaint against a court commissioner and his court-appointed counsel
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1 in a pending state action would be futile. Furthermore, regarding
2 Plaintiff's requests for injunctive and declaratory relief, this Court
3 will not intervene in a pending state action involving parental rights.

4 Accordingly, **IT IS HEREBY ORDERED:** Plaintiff's Motion for
5 Reconsideration and to Amend (**Ct. Rec. 7**) is **DENIED**.

6 **IT IS SO ORDERED.** The District Court Executive is directed to
7 enter this Order, forward a copy to Plaintiff at his last known address,
8 and close the file.

9 **DATED** this 22nd day of August 2008.

11 S/ Edward F. Shea
12 EDWARD F. SHEA
13 UNITED STATES DISTRICT JUDGE

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